	Case 4:08-cv-03231-CW Document 6 Filed 08/1	4/2008 Page 1 of 3			
1 2 3 4 5 6 7 8	EDMUND G. BROWN JR. Attorney General of the State of California DANE R. GILLETTE Chief Assistant Attorney General GERALD A. ENGLER Senior Assistant Attorney General PEGGY S. RUFFRA Supervising Deputy Attorney General MICHELE J. SWANSON, State Bar No. 191193 Deputy Attorney General 455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004 Telephone: (415) 703-5703 Fax: (415) 703-1234 Email: Michele.Swanson@doj.ca.gov				
9	Attorneys for Respondent				
10	IN THE UNITED STATES DISTI				
<ul><li>11</li><li>12</li></ul>	IN THE UNITED STATES DISTRICT COURT  FOR THE NORTHERN DISTRICT OF CALIFORNIA				
13	OAKLAND DIVISIO				
14					
15	MARIO MERINO,	C 08-3231 CW			
16	Petitioner,	MOTION TO ENLARGE TIME TO FILE RESPONSE TO PETITION FOR WRIT OF			
17	v. MICHAEL MARTEL, Warden, Mule Creek State	HABEAS CORPUS			
17 18					
18 19	MICHAEL MARTEL, Warden, Mule Creek State				
18 19 20	MICHAEL MARTEL, Warden, Mule Creek State Prison,  Respondent.	HABEAS CORPUS			
18 19 20 21	MICHAEL MARTEL, Warden, Mule Creek State Prison,  Respondent.  Pursuant to Civil L.R. 6-3 and Habeas L.R. 2254	-6, respondent hereby requests a 60-			
18 19 20 21 22	MICHAEL MARTEL, Warden, Mule Creek State Prison,  Respondent.  Pursuant to Civil L.R. 6-3 and Habeas L.R. 2254 day extension of time, until October 14, 2008, in which to the	-6, respondent hereby requests a 60-file a response to the petition for writ			
18 19 20 21 22	MICHAEL MARTEL, Warden, Mule Creek State Prison,  Respondent.  Pursuant to Civil L.R. 6-3 and Habeas L.R. 2254 day extension of time, until October 14, 2008, in which to to of habeas corpus. Good cause for the extension is set forth	-6, respondent hereby requests a 60-file a response to the petition for writ in the accompanying declaration of			
18 19 20 21 22 23	MICHAEL MARTEL, Warden, Mule Creek State Prison,  Respondent.  Pursuant to Civil L.R. 6-3 and Habeas L.R. 2254 day extension of time, until October 14, 2008, in which to the	-6, respondent hereby requests a 60-file a response to the petition for writ in the accompanying declaration of			
18 19 20 21 22 23 24	MICHAEL MARTEL, Warden, Mule Creek State Prison,  Respondent.  Pursuant to Civil L.R. 6-3 and Habeas L.R. 2254 day extension of time, until October 14, 2008, in which to to of habeas corpus. Good cause for the extension is set forth	-6, respondent hereby requests a 60-file a response to the petition for writ in the accompanying declaration of this extension of time because he is			
18 19	MICHAEL MARTEL, Warden, Mule Creek State Prison,  Respondent.  Pursuant to Civil L.R. 6-3 and Habeas L.R. 2254 day extension of time, until October 14, 2008, in which to to of habeas corpus. Good cause for the extension is set forth counsel. We have not attempted to contact petitioner about	-6, respondent hereby requests a 60-file a response to the petition for writ in the accompanying declaration of this extension of time because he is			
18 19 20 21 22 23 24 25	MICHAEL MARTEL, Warden, Mule Creek State Prison,  Respondent.  Pursuant to Civil L.R. 6-3 and Habeas L.R. 2254 day extension of time, until October 14, 2008, in which to to of habeas corpus. Good cause for the extension is set forth counsel. We have not attempted to contact petitioner about an incarcerated state prisoner who is representing himself.	-6, respondent hereby requests a 60-file a response to the petition for writ in the accompanying declaration of this extension of time because he is See 8/5/08 Order Granting			
18 19 20 21 22 23 24 25 26	MICHAEL MARTEL, Warden, Mule Creek State Prison,  Respondent.  Pursuant to Civil L.R. 6-3 and Habeas L.R. 2254 day extension of time, until October 14, 2008, in which to of habeas corpus. Good cause for the extension is set forth counsel. We have not attempted to contact petitioner about an incarcerated state prisoner who is representing himself. Substitution of Attorney.	HABEAS CORPUS  -6, respondent hereby requests a 60- file a response to the petition for writ in the accompanying declaration of t this extension of time because he is  See 8/5/08 Order Granting  that this Court grant an extension of			

ĺ	Case 4:08-cv-03231-CW	Document 6	Filed 08/14/2008	Page 2 of 3			
1	Dated: August 14, 2008						
2	Respectfully submitted,						
3	EDMUND G. BROWN JR. Attorney General of the State of California						
4		DANE R. GILLETTE					
5		Chief Assistant Attorney General GERALD A. ENGLER					
6		Senior Assistant Attorney General					
7		PEGGY S. RU Supervising De	FFRA eputy Attorney Genera	ત્રી			
8							
9		/s/ Michele I S	Swanson				
10		/s/ Michele J. S MICHELE J. S Deputy Attorn					
11		Attorneys for I	Respondent				
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	Motion to Enlarge Time to File Resp	oonse to Pet. for Writ	of Hab. Corpus	Merino v. Martel, Warden C 08-3231 CW			
			2	C 00-3231 CW			

## **DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: Merino v. Martel, Warden

No.: C 08-3231 CW

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On August 14, 2008, I served the attached

## MOTION TO ENLARGE TIME TO FILE RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

## DECLARATION OF COUNSEL IN SUPPORT OF MOTION TO ENLARGE TIME TO FILE RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

## [PROPOSED] ORDER

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

Mario Merino V-54572 Mule Creek State Prison B-8-242U P.O. Box 409040 Ione, CA 94560

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on August 14, 2008, at San Francisco, California.

M. Argarin	/s/ M. Argarin		
Declarant	Signature		

	Case 4:08-cv-03231-CW	Document 6-2	Filed 08/1	14/2008	Page 1 of 2	
1 2 3 4 5 6 7 8	EDMUND G. BROWN JR. Attorney General of the Stat DANE R. GILLETTE Chief Assistant Attorney Ge GERALD A. ENGLER Senior Assistant Attorney G PEGGY S. RUFFRA Supervising Deputy Attorne MICHELE J. SWANSON, S. Deputy Attorney General 455 Golden Gate Avenue, San Francisco, CA 94102-Telephone: (415) 703-570 Fax: (415) 703-1234 Email: Michele.Swanson@	eneral Feneral Sy General State Bar No. 191193 Suite 11000 -7004				
10	, I					
11	IN	ΓΗΕ UNITED STAT	ES DISTR	COU	RT	
12	FOR T	HE NORTHERN DIS	STRICT O	F CALIFO	DRNIA	
13		OAKLAND	DIVISIO	N		
14	MARIO MERINO,			C 08-32	31 CW	
15	MARIO MERITO,	Pe	etitioner,		RATION OF	7
16	<b>v.</b>	10	zutioner,	COUNS	SEL IN SUPP ON TO ENLA	ORT OF
17 18	MICHAEL MARTEL, W Prison,	Varden, Mule Creek	State	TIME TO PET	TO FILE RES FITION FOR AS CORPUS	SPONSE
19		Res	pondent.			
20						
21	I, MICHELE J. SV	WANSON, declare ur	nder penal	ty of perju	ry as follows:	
22	I am a Deputy Attorney General for the State of California and am assigned to				ed to	
23	represent respondent in this case. Respondent's answer or other responsive pleading is due					
24	August 14, 2008, pursuant to this Court's July 15, 2008 Order to Show Cause. I am unable to					
25	meet this deadline, and requ	est an enlargement of	time to fi	le a respon	se to the petiti	ion for writ
26	of habeas corpus for the foll	owing reasons.				
27	I was not the attor	ney who briefed this	case on di	rect review	in state court	. Since
28	having this case assigned to	me, I have been work	king on cas	ses with ch	ronological pi	recedence,
	Decl. of Counsel in Support of Mot Pet, for Writ of Hab, Corpus	t. to Enlarge Time to File R	Response to		Merino v	. Martel, Warden C 08-3231 CW

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1	and in the past 30 days, I have filed answers in Wash v. Runnels, C 04-04207 JW and Haney v.
2	Adams, C 07-4682 CRB (PR), a motion to dismiss in Givens v. Martel, C 07-1448 MHP (PR),
3	and reply briefs in Parnell v. Evans, C 05-4324 SBA (PR), Weisner v. Evans, C 07-5509 SI (PR),
4	and Grecu v. Evans, C 07-0780 JF (PR). For these reasons, I am unable to file the response in
5	this case by the current deadline.
6	I have not attempted to contact petitioner about this extension of time because he is an
7	incarcerated state prisoner who is representing himself. See 8/5/08 Order Granting Substitution
8	of Attorney.
9	Accordingly, I request that the Court grant respondent an extension of 60 days, to and
10	including October 14, 2008, in which to file a response to the petition.
11	I declare under penalty of perjury that the foregoing is true and correct.
12	Executed at San Francisco, California, on August 14, 2008.
13	
14	/s/ Michele J. Swanson MICHELE J. SWANSON
15	Deputy Attorney General
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	Decl. of Counsel in Support of Mot. to Enlarge Time to File Response to Merino v. Martel. Warden

	Case 4:08-cv-03231-CW	Document 6-3	Filed 08/	14/2008	Page 1 of 1
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8	IN	THE UNITED STAT	ES DISTF	RICT COU	RT
9	FOR T	HE NORTHERN DIS	STRICT O	F CALIFO	RNIA
10		OAKLAND	DIVISIO	N	
11	MARIO MERINO,			C 08-323	31 CW
12	,	Pe	etitioner,	[PROPO	OSED] ORDER
13	v.				
<ul><li>14</li><li>15</li></ul>	MICHAEL MARTEL, W Prison,	Varden, Mule Creek	State		
16		Res	pondent.		
17					
18	GOOD CAUSE A	APPEARING, it is her	eby order	ed that resp	ondent shall file with the
19	Court and serve on petitione	er, on or before <b>Octob</b>	oer 14, 20	<b>08</b> , an answ	ver or other response to the
20	petition for writ of habeas co	orpus.			
21	IT IS SO ORDER	ED.			
22					
23	Dated:		The Hone	orable Clau	dia Wilken
24					
<ul><li>25</li><li>26</li></ul>					
27					
28					
	[Proposed] Order				Merino v. Martel, Warden Case No. C 08-3231 CW